

Exhibit A

FILED: KINGS COUNTY CLERK 12/16/2024 04:19 PM

INDEX NO. 224199/2024

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 12/16/2024

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

CBB VENTURE, LLC,

Plaintiff,

-against-

WESTCHESTER SURPLUS LINES
INSURANCE COMPANY, AXIS SURPLUS
INSURANCE COMPANY and ARCH
SPECIALTY INSURANCE COMPANY,

Defendants.

Index No.:

Date purchased:

Plaintiff designates Kings
County as place of trial.

SUMMONS

Basis of venue is

Location of Subject Premises.

To the above-named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, upon Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
December 16, 2024

LERNER, ARNOLD & WINSTON, LLP
Attorneys for Plaintiff

By: 

Johnathan C. Lerner, Esq.

286 Fifth Avenue, 12th Floor

New York, New York 10001

Telephone: (212) 286-4655

Email: jlerner@lawpartnersllp.com

Defendants' Addresses:

WESTCHESTER SURPLUS LINES INSURANCE COMPANY

436 Walnut Street

Philadelphia, Pennsylvania 19106

c/o New York State Department of Financial Services, Corporate Affairs Unit

One Commerce Plaza - 20th Floor, Albany, New York 12257

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AXIS SURPLUS INSURANCE COMPANY

10000 Avalon Boulevard, Suite 200

Alpharetta, Georgia 30009

c/o New York State Department of Financial Services, Corporate Affairs Unit

One Commerce Plaza - 20th Floor, Albany, New York 12257

ARCH SPECIALTY INSURANCE COMPANY

Harborside 3

210 Hudson Street, Suite 300

Jersey City, New Jersey 07311

c/o New York State Department of Financial Services, Corporate Affairs Unit,

One Commerce Plaza - 20th Floor, Albany, New York 12257

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INDEX NO. 211002/2024

NYSCEF DOC. NO. 1

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

CBB VENTURE, LLC,

Index No.:

Plaintiff,

-against-

COMPLAINTWESTCHESTER SURPLUS LINES
INSURANCE COMPANY, AXIS SURPLUS
INSURANCE COMPANY and ARCH
SPECIALTY INSURANCE COMPANY,

Defendants.

Plaintiff, CBB VENTURE, LLC (hereinafter referred to as "Plaintiff") by its attorneys, LERNER, ARNOLD & WINSTON, LLP, as and for its Complaint, alleges upon information and belief as follows:

1. At all times hereinafter mentioned, Plaintiff, CBB VENTURE, LLC was and still is a foreign limited liability company, organized and existing under and by virtue of the laws of the State of Delaware, which conducts business in the State of New York.

2. At all times hereinafter mentioned, Defendant, WESTCHESTER SURPLUS LINES INSURANCE COMPANY was and still is a foreign corporation, organized and existing under and by virtue of the laws of the State of Georgia, with its principal place of business located at 436 Walnut Street, Philadelphia, Pennsylvania 19106.

3. At all times hereinafter mentioned, Defendant, WESTCHESTER SURPLUS LINES INSURANCE COMPANY was and still is a licensed insurance carrier regularly conducting business within the State of New York.

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4. At all times hereinafter mentioned, Defendant, WESTCHESTER SURPLUS LINES INSURANCE COMPANY was authorized by the New York Department of Financial Services to issue policies of insurance within the State of New York, including the policy of insurance issued to the above-named Plaintiff.

5. At all times hereinafter mentioned, Defendant, WESTCHESTER SURPLUS LINES INSURANCE COMPANY is subject to the jurisdiction of this Court.

6. At all times hereinafter mentioned, Defendant, AXIS SURPLUS INSURANCE COMPANY was and still is a foreign business corporation, organized and existing under and by virtue of the laws of the State of Illinois, with its principal place of business located at 10000 Avalon Boulevard, Suite 200, Alpharetta, Georgia 30009.

7. At all times hereinafter mentioned, Defendant, AXIS SURPLUS INSURANCE COMPANY was and still is a licensed insurance carrier regularly conducting business within the State of New York.

8. At all times hereinafter mentioned, Defendant, AXIS SURPLUS INSURANCE COMPANY was authorized by the New York Department of Financial Services to issue policies of insurance within the State of New York, including the policy of insurance issued to the above-named Plaintiff.

9. At all times hereinafter mentioned, Defendant, AXIS SURPLUS INSURANCE COMPANY is subject to the jurisdiction of this Court.

10. At all times hereinafter mentioned, Defendant, ARCH SPECIALTY INSURANCE COMPANY was and still is a foreign business corporation, organized and existing under and by virtue of the laws of the State of Missouri, with its principal place of business located at Harborside

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3, 210 Hudson Street, Suite 300, Jersey City, New Jersey 07311.

11. At all times hereinafter mentioned, Defendant, ARCH SPECIALTY INSURANCE COMPANY was and still is a licensed insurance carrier regularly conducting business within the State of New York.

12. At all times hereinafter mentioned, Defendant, ARCH SPECIALTY INSURANCE COMPANY was authorized by the New York Department of Financial Services to issue policies of insurance within the State of New York, including the policy of insurance issued to the above-named Plaintiff.

13. At all times hereinafter mentioned, Defendant, ARCH SPECIALTY INSURANCE COMPANY is subject to the jurisdiction of this Court.

14. At all times hereinafter mentioned, Plaintiff, CBB VENTURE, LLC was and still is the owner of the premises located at 8973 Bay Parkway, Brooklyn, New York (hereinafter referred to as “the Subject Premises”).

15. At all times hereinafter mentioned, Plaintiff maintained an insurable interest in the Subject Premises.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS
(Breach of Contract)

16. Plaintiff repeats, reiterates and realleges each and every allegation set forth in preceding paragraphs numbered “1” through “15,” inclusive, with the same force and effect as though more fully set forth herein.

17. Prior to January 18, 2023, for good and valuable consideration, Defendant,

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WESTCHESTER SURPLUS LINES INSURANCE COMPANY issued to Plaintiff a policy of insurance bearing number D37401882 011; Defendant, AXIS SURPLUS INSURANCE COMPANY issued to Plaintiff a policy of insurance bearing number EAF663675-22; and Defendant, ARCH SPECIALTY INSURANCE COMPANY issued to Plaintiff a policy of insurance bearing number ESP1015899-00, all with effective dates of coverage from October 10, 2022 through October 18, 2023 (“the Policies”), which insured the Subject Premises against all risks of loss.

18. On or about January 18, 2023, while the Policies were in full force and effect, the Subject Premises were extensively damaged by a covered loss (“the Loss”).

19. Subsequent to the Loss, Plaintiff submitted a claim to Defendants seeking to be indemnified for the damages sustained to the Subject Premises by virtue of the Loss.

20. Plaintiff has complied with all conditions precedent and subsequent necessary for payment under the Policies.

21. Defendants have failed and refused to indemnify Plaintiff for the damages sustained to the Subject Premises by virtue of the Loss, despite the fact that same has been duly demanded.

22. Defendants’ failure to indemnify Plaintiff for the damages sustained to the Subject Premises by virtue of the Loss constitutes a breach of contract.

23. As a result of Defendants’ breach of contract, Plaintiff has been damaged in the sum of at least \$3,000,000.00, with the precise amount to be determined at the trial of this action.

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WHEREFORE, Plaintiff demands judgment on its First Cause of Action against Defendants in the sum of at least \$3,000,000.00, with the precise amount to be determined at the trial of this action, with interest thereon from January 18, 2023, together with the costs and disbursements of this action, including reasonable attorney's fees.

Dated: New York, New York
December 16, 2024

Yours, etc.,

LERNER, ARNOLD & WINSTON, LLP
Attorneys for Plaintiff

By: _____

Johnathan C. Lerner

286 Fifth Avenue, 12th Floor

New York, New York 10001

Telephone: (212) 686-4655

Email: jlerner@lawpartnersllp.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
CBB VENTURE, LLC,

Index No. 534252/2024

Plaintiffs/Petitioners,

- against -

WESTCHESTER SURPLUS LINES INSURANCE
COMPANY, AXIS SURPLUS INSURANCE COMPANY
and ARCH INSURANCE COMPANY,

Defendants/Respondents.
-----X

**NOTICE OF ELECTRONIC FILING
(Mandatory Case)
(Uniform Rule § 202.5-bb)**

You have received this Notice because:

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

• **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• **If you are not represented by an attorney:**

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The **benefits of participating in e-filing** include:

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works:

- visit: www.nycourts.gov/efile-unrepresented or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

Information for Attorneys
(E-filing is Mandatory for Attorneys)

An attorney representing a party who is served with this notice must either:

- 1) immediately record his or her representation within the e-filed matter on the NYSCEF site www.nycourts.gov/efile ; or
- 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: nyscef@nycourts.gov).

Dated: 12/16/2024

Johnathan C. Lerner, Esq.
Name
LERNER, ARNOLD & WINSTON, LLP
Firm Name

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